

[Bracketed] and ~~striketrough~~ material is that portion being deleted
Underlined material is that portion being added

BILL NO. _____

SUMMARY – An Ordinance to amend Title 24, Chapter 24.40 of the Clark County Code regarding the storm sewer system to add, revise, or remove definitions, provisions concerning notices of violation, hearings, penalties, notices to cease and desist, and judicial review and make other minor changes as appropriate.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 24, CHAPTER 24.40 OF THE CLARK COUNTY CODE REGARDING THE STORM SEWER SYSTEM TO ADD, REVISE, AND REMOVE DEFINITIONS; MODIFY PROVISIONS RELATED TO NOTICES OF VIOLATION AND HEARINGS TO AUTHORIZE PENALTIES AND NOTICES TO CEASE AND DESIST AGAINST ALL OWNERS AND OPERATORS WHO VIOLATE CODE PROVISIONS, ELIMINATE TOLLING PERIOD TO CORRECT VIOLATIONS AND APPEALS TO THE BOARD, ADD JUDICIAL REVIEW PROCEDURES; MAKE MINOR CHANGES TO CLARIFY AND CORRECT; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK,
STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. Section 24.40.010 of the Clark County Code is hereby amended to read
as follows:

24.40.010 - Definitions.

...

“Construction activity” means activities or projects that include but are not limited to
clearing and grubbing, grading, excavating, and demolition on construction sites or parcels

where one acre or greater is disturbed or on construction sites or parcels less than one acre if the construction sites or parcels are part of a common plan of development.

...

~~["Designee of the board" means the hearing officer appointed by the board.]~~

...

"Las Vegas Valley Storm Water Management Plan for Municipal Separate Storm Sewer System ("SWMP") means the plan ~~[dated September 2003]~~ that describes the programs, practices and responsibilities of the Clark County MS4 permittees to implement the NPDES permit No. NV0021911 including annual updates.

...

"Operator" means any person who engages in a business or enterprise on, controls, resides on or otherwise uses any premises whether or not the person is legally authorized to use such premises.

"Person" means any individual, association, organization, partnership, firm, corporation or other type of entity recognized by law and acting as either the owner, or as the owner's agent, or the operator, or as the operator's agent~~[, but does not include the permittees or any of their employees or agents].~~

SECTION TWO. Section 24.40.020 of the Clark County Code is hereby amended to read as follows:

24.40.020 – General Provisions.

...

(b) Enabling Statutes. This chapter is adopted pursuant to Nevada Revised Statutes ~~[Sections 244.157, 244.195, and Chapter 244A]~~ Chapters 244 and 244A.

...

SECTION THREE. Section 24.40.041 of the Clark County Code is hereby amended to read as follows:

24.40.041 – Notice of Storm Sewer ~~[Discharge]~~ Violation.

(a) Upon the discovery of an alleged violation of this chapter, the county manager may send to the owner and/or operator of the ~~[industrial facility, construction site, or]~~ premises, at the mailing address provided by the owner or operator in county or state records, written notice of the conditions constituting the alleged violation. The notice shall be sent by certified mail, return receipt requested. The notice shall contain:

(1) The street address, parcel number, legal description and/or the name ~~[of the industrial facility or construction site]~~ associated with the premises sufficient to identify the premises upon which the conditions constituting the alleged violation are located;

(2) A description of the conditions constituting the alleged violation to be corrected and the date by which compliance must occur or, if warranted for reasons of health or safety, a requirement to cease and desist the conditions constituting the alleged violation immediately;

(3) A statement informing the owner or operator of an opportunity to request a hearing before a ~~[designee of the board and an appeal of that decision to the board]~~ hearing officer appointed by the board pursuant to chapter 2.68; and

(4) If the county manager seeks civil penalties in accordance with subsection 24.40.041(~~[d]~~c), a statement informing the owner or operator that the owner or operator will be subject to additional civil penalties for each day that the owner or operator does not correct the conditions constituting the alleged violation after the date specified in the notice.

(b) Hearing

(1) If the owner or operator disagrees with the notice served pursuant to subsection 24.40.041(a), the owner or operator may request a hearing ~~[before the designee of the board]~~. The hearing must be requested within ten business days of service of the notice. If the owner or

operator fails to request a hearing within ten business days, the notice shall be deemed final and enforceable by the county manager.

(2) ~~[The date specified in the notice by which the owner or operator must correct the conditions is tolled for the period during which the owner or operator requests a hearing and receives a decision from the designee of the board and for the period during which the owner appeals that decision to the board.]~~

~~[(3)]~~ When the owner or operator requests a hearing, the county manager shall, within ten business days after receipt of such request, ~~[set]~~ schedule a hearing before the ~~[designee of the board]~~ hearing officer. At the hearing, the county manager and the owner or operator shall present ~~[to the designee of the board the]~~ evidence to establish or controvert the facts set forth in the notice, and the ~~[designee of the board]~~ hearing officer shall determine whether the ~~[conditions are such that they violate]~~ owner or operator violated and/or continues to violate any provisions of this chapter and ~~[shall be corrected]~~ whether a penalty shall be assessed. Upon determining that a violation exists ~~[that must be corrected]~~, the ~~[designee of the board]~~ hearing officer shall issue an order stating the violation, the penalty, and, if applicable, a requirement that the owner or operator correct ~~[the conditions that constitute]~~ the violation within five business days of receipt of the order, or other reasonable amount of time based on the type of violation ~~[; of the service of the order]~~.

(3) If the owner or operator fails to appear at the hearing, the hearing officer shall issue an order confirming the notice, including the violation and penalty as specified therein.

(4) The hearing officer shall issue an order no later than 30 days after the hearing. A person who is aggrieved by the hearing officer's order may seek judicial review of the order in a court of competent jurisdiction by filing a petition seeking such relief within 30 days of receipt of the order.

(c) ~~[Appeal. The county manager or the owner or operator who disagrees with the decision of the designee of the board may appeal the decision to the board. The county manager or the~~

~~owner or operator must notify the director of administrative services in writing, within five business days of service of the order, that the county manager or the owner or operator is appealing the decision of the designee of the board. The director of administrative services shall schedule the appeal to be heard at the next available scheduled board meeting. At the appeal, the board shall review the evidence presented to and the decision of the designee of the board. If the board agrees with the decision of the designee of the board, it shall issue an order to that effect including, where applicable, a reasonable time period for the owner or operator to correct the violation.]~~

~~[(d)]~~ Civil penalty. An owner or operator of ~~[a construction site or industrial facility]~~ any premises shall be assessed a civil penalty ~~[for each day that the owner or operator fails to correct the conditions that constitute the violation of a federally mandated standard after the date specified on the notice by which the owner or operator was required to correct the conditions. The civil penalty shall be one thousand dollars for each day the violation continues after the date specified on the notice]~~ of not more than \$1,000 per day per violation.

SECTION FOUR. Section 24.40.046 of the Clark County Code is hereby amended to read as follows:

24.40.046 – Remedies not exclusive.

The enforcement actions and penalties listed in this chapter are not exclusive of any other actions available under any applicable federal, state or local law, code or regulation, and it is within the ~~[director's]~~ county manager's discretion to seek cumulative relief.

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// /

SECTION FIVE. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION SIX. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION SEVEN. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the ____ day of _____, 2016.

PROPOSED BY: Commissioner _____, 2016.

AYES: _____

NAYS: _____

ABSTAINING: _____

ABSENT: _____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

BY: _____
STEVE SISOLAK, Chairman

ATTEST:

LYNN MARIE GOYA, County Clerk

This ordinance shall be in force and effect from and after
the _____ day of _____, 2016.